

**UNITED STATES DISTRICT COURT
GEORGIA SOUTHERN DISTRICT COURT
AUGUSTA**

CASE NO.: ***

MARCO VERCH,

Plaintiff,

v.

ALPHA AND OMEGA VISION CENTER,
LLC dba INSIGHT FAMILY EYE CARE and
MH SUB I, LLC dba INTERNET BRANDS,

Defendants,

**COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff MARCO VERCH, by and through his undersigned counsel, brings this Complaint against Defendants, ALPHA AND OMEGA VISION CENTER, LLC dba INSIGHT FAMILY EYE CARE, and MH SUB I, LLC dba INTERNET BRANDS, for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MARCO VERCH (“Verch”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Verch's original copyrighted Work of authorship.

2. Verch is a photographer from Cologne, Germany. He has been working as a photographer for many years and enjoys taking pictures of scenery from his travels, sporting events, food, flowers, cars, drones, and more. He also takes photos for advertisements and fundraising campaigns.

SRIPLAW

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3. Defendant Alpha and Omega Vision Center, LLC dba Insight Family Eye Care (“Insight Family”) is a full-service eye and vision care provider who treats emergency and routine eye appointments.

4. Defendant MH Sub I, LLC dba Internet Brands (“Internet Brands”) has grown to become the leading digital franchise focused on large vertical markets, headlined by their current focus on the Health and Legal Markets. They serve more than 100,000 commercial partners and 250 million monthly consumer visitors. At all times relevant herein, Internet Brands owned and operated the internet website used by Insight Family and located at the following URL: <https://insighteyeaug.com/> (the “Website”).

5. Defendants Insight Family and Internet Brands are collectively referred to herein as “Defendants”.

6. Verch alleges that Defendants copied his copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with their businesses.

JURISDICTION AND VENUE

7. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

8. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

9. Defendants are subject to personal jurisdiction in Georgia.

10. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.

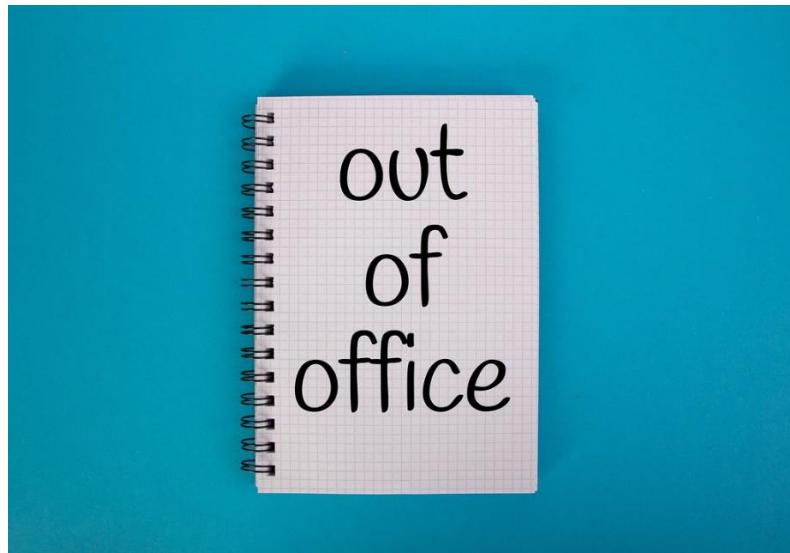
DEFENDANTS

11. Alpha and Omega Vision Center, LLC dba Insight Family Eye Care, is a Georgia Limited Liability Company, with its principal place of business at 3836 Washington Rd., Ste. 2, Augusta, GA 30907 and can be served by serving its Registered Agent, James E. Enoch, Jr., at 3540 Wheeler Rd., Ste. 312, Augusta, GA 30909.

12. MH Sub I, LLC dba Internet Brands, is a California Limited Liability Company, with its principal place of business at 909 North Pacific Coast Hwy., 11th Floor, El Segundo, CA 90245 and can be served by serving its Registered Agent, CSC - Lawyers Incorporating Service, at 251 Little Falls Dr., Wilmington, DE 19808.

THE COPYRIGHTED WORK AT ISSUE

13. In 2019, non-party Jernej Furman created the photograph entitled “Out-of-office-text-written-in-notebook”, which is shown below and referred to herein as the “Work”.



14. Jernej Furman subsequently transferred all rights in the Work to Plaintiff Verch.

15. Verch registered the Work with the Register of Copyrights on April 27, 2020, and was assigned registration number VA 2-208-726. The Certificate of Registration is attached hereto as **Exhibit 1**.

16. Verch published the Work on June 12, 2019, by displaying it on his Flickr page at <https://www.flickr.com/photos/30478819@N08/48049105116/> (the “Flickr Page”). At the time he published the Work on the Flickr Page and at all times thereafter, Verch offered usage rights to the public through the Creative Commons CC BY 2.0 license (the “CC License”), which allowed the public to share and adapt the Work provided that appropriate attribution was made, including appropriate credit to Verch, a link to the license, and a statement of whether any changes were made to the Work.¹

17. Verch’s display of the Work on the Flickr Page also included copyright management information (“CMI”) next to the Work in the form of Verch’s name, copyright notice, and the link to the licensing terms (collectively the “Attributions”).

18. Verch’s Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets. The Work in perspective, orientation, positioning, lighting, and other details is entirely original, distinctive, and unique. As such, the Work qualifies as subject matter protectable under the Copyright Act.

19. At all relevant times Verch was the owner of the copyrighted Work.

INFRINGEMENT BY DEFENDANTS

20. Defendants have never been directly licensed to use the Work for any purpose.

21. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

22. Defendants copied the Work and displayed it without attribution, in violation of the CC License (i.e., without credit to Verch, a link to the CC License, or a statement regarding any changes made to the Work).

¹ <https://creativecommons.org/licenses/by/2.0/>

23. Verch never gave Defendants permission or authority to use the Work at issue in this case, in any manner not authorized by the CC License.

24. On or about October 13, 2021, Verch discovered the unauthorized use of his Work on a Facebook account at the following URL:

<https://www.facebook.com/insighteyeaug/photos/4022460514462327> (the “Facebook Account”).

25. After Defendants copied the Work, they made further copies and distributed the Work on the internet to promote the sale of goods and services as part of their business practices.

26. Defendants copied and distributed Verch's copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

27. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

28. Verch notified Defendants of the allegations set forth herein on March 31, 2023, and May 15, 2023. To date, the parties have failed to resolve this matter.

29. When Defendants copied and displayed the Work at issue in this case, Defendants removed Verch's copyright management information from the Work.

30. Verch never gave Defendants permission or authority to remove copyright management information from the Work at issue in this case.

COUNT I
COPYRIGHT INFRINGEMENT

31. Verch incorporates the allegations of paragraphs 1 through 30 of this Complaint as if fully set forth herein.

32. Verch owns a valid copyright in the Work at issue in this case.

33. Verch registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

34. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Verch's authorization in violation of 17 U.S.C. § 501.

35. Defendants performed the acts alleged in the course and scope of its business activities.

36. Defendants' acts were willful.

37. Verch has been damaged.

38. The harm caused to Verch has been irreparable.

COUNT II
REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION

39. Verch incorporates the allegations of paragraphs 1 through 38 of this Complaint as if fully set forth herein.

40. The Work contains copyright management information ("CMI") in the form of Attributions on the Flickr Page.

41. Defendants knowingly and with the intent to enable, conceal, or facilitate copyright infringement, displayed the Work on the Facebook Page without any of the Attributions in violation of 17 U.S.C. § 1202(b).

42. Defendants distributed the Work to Facebook knowing that the CMI had been removed or altered without authority of the copyright owner or the law.

43. Defendants committed these acts knowing or having reasonable grounds to know that they would induce, enable, facilitate or conceal infringement of Verch's rights in the Work.

44. Defendants caused, directed and authorized others commit these acts knowing or having reasonable grounds to know that they would induce, enable, facilitate or conceal

infringement of Verch's rights in the Work at issue in this action protected under the Copyright Act.

45. Verch has been damaged.
46. The harm caused to Verch has been irreparable.

WHEREFORE, the Plaintiff MARCO VERCH prays for judgment against the Defendants ALPHA AND OMEGA VISION CENTER, LLC dba INSIGHT FAMILY EYE CARE AND MH SUB I, LLC dba INTERNET BRANDS that:

- a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. §§ 501 and 1202;
- b. Defendants be required to pay Verch his actual damages and Defendants' profits attributable to the infringement, or, at Verch's election, statutory damages, as provided in 17 U.S.C. §§ 504 and 1203;
- c. Verch be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Verch be awarded pre- and post-judgment interest; and
- e. Verch be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Verch hereby demands a trial by jury of all issues so triable.

DATED: November 14, 2023

Respectfully submitted,

/s/ Joel B. Rothman
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/s/ Faith Beckworth
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